

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

JESUS GAMBOA,

Petitioner,

vs.

ESTELLA DERR,

Respondent.

Case No. 22-cv-00106 DKW-WRP

**ORDER DISMISSING PETITION
UNDER 28 U.S.C. § 2241 FOR
WRIT OF HABEAS CORPUS**

On March 21, 2022, Jesus Gamboa petitioned, pursuant to 28 U.S.C. Section 2241, for the Bureau of Prisons (BOP) to credit time that he served in jail from September 3, 2013 to November 3, 2014 and, then, recalculate his projected release date. Dkt. No. 1. In response, with supporting evidence, the government asserts that the BOP *has* now credited Gamboa for 439 days he served in jail from August 20, 2013 through November 1, 2014, and recalculated his release date.

In light of the foregoing, the Court finds that this case is moot. Specifically, when a petitioner's claimed injury cannot be redressed by a favorable decision of the court, a petition for habeas corpus is moot. *Burnett v. Lampert*, 432 F.3d 996, 1000-01 (9th Cir. 2005). Here, Gamboa's claimed injury was the BOP failing to credit time he served in jail prior to his federal sentence commencing. The evidence reflects that Gamboa has now received *all* the time he requested. In fact,

Gamboa has received more credit than he actually requested.¹ In reply, Gamboa appears to contend otherwise, claiming that the BOP has not given him credit for time between September 3, 2013 and November 3, 2014. *See* Dkt. No. 11 at 1. The evidence reflects, however, that this is simply not true with respect to time through November 1, 2014. Dkt. No. 10-14. As for November 2 and November 3, 2014, the evidence reflects that Gamboa received credit for these days from a state court. Dkt. No. 10-12. Therefore, as the government argues, Gamboa was not entitled to a double credit for those days on his federal sentence. *See* Dkt. No. 10 at 4 (citing 18 U.S.C. § 3585(b)).

Accordingly, based upon the record, the Court finds that Gamboa's alleged injuries have been redressed and, thus, this case should be DISMISSED AS MOOT. *Cf. Rahman v. Graber*, 615 F. App'x 876 (9th Cir. Sep. 2, 2015) (explaining that an appeal was moot after a federal prisoner sought credit towards

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¹As mentioned, Gamboa sought credit for time served between September 3, 2013 and November 4, 2014—a total of 429 days. He has, instead, received credit for 439 days.

his sentence, something that the Bureau of Prisons granted during the pendency of the appeal).

The Clerk is instructed to CLOSE this case.

IT IS SO ORDERED.

Dated: February 8, 2023 at Honolulu, Hawai‘i.



/s/ Derrick K. Watson

Derrick K. Watson
Chief United States District Judge

Jesus Gamboa v. Estella Derr; Civil 22-00106 DKW-WRP;
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